

04 NCAC 24C .0215 is proposed for amendment as follows:

**04 NCAC 24C .0215 NEW FILING AFTER WITHDRAWAL OF APPEAL**

~~(a) A party whose request to withdraw the appeal was granted who then files an appeal of the same determination or issue number shall be deemed to have filed the appeal on the date that DES receives the new filing.~~

~~(b) The record on appeal for a matter that was closed before a new appeal was received shall include the appealing party's initial request to withdraw the appeal, the order granting the request to withdraw the appeal, and the new appeal filing.~~

~~(c) The Division DES or a party may raise the issue of the timeliness of the appeal if the appeal is filed after the appeal rights have expired on the determination or issue being appealed.~~

~~(d) Timeliness of the appeal shall be determined in accordance with 04 NCAC 24A .0106.~~

An aggrieved party may file a new appeal to a Determination by Adjudicator after the initial appeal has been withdrawn. The refiled appeal shall be scheduled for hearing before an Appeals Referee consistent with G.S. 96-15(c). Either the Division or a party may raise the issue of timeliness if the refiled appeal is received after the appeal rights to the determination have expired. The issue of timeliness shall be determined in accordance with G.S. 96-15(b)(2).

*History Note: Authority G.S. 96-4; 96-15;  
Eff. July 1, 2018;  
Amended Eff. June 1, 2022.*